

# House . . . . . No. 104

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Message from His Excellency the Governor recommending legislation relative to strengthening the Commonwealth's partnership with municipalities.

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## The Commonwealth of Massachusetts



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January 28, 2009

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled "An Act Strengthening the Commonwealth's Partnership with its Municipalities."

This legislation provides cities and towns with the tools they need to respond to the present fiscal emergency by managing limited resources more efficiently. It enables municipal officials to control their employee health care costs by easing the requirements for entry into the state Group Insurance Commission and holding municipalities financially accountable for providing cost-efficient health care. It requires each community to move all its eligible retirees to Medicare coverage, and provides some pension funding relief within fiscally responsible parameters. Several provisions encourage and facilitate regionalization of municipal services and reform municipal procurement and advertising requirements, thus providing cost efficiencies without jeopardizing transparency or quality. Finally, this legislation allows municipalities more legal flexibility in such areas as the permissible number of alcoholic beverage licenses, the maximum age of police officers and firefighters, and fixing inadvertent procedural mistakes in calling town elections and town meetings, thus dramatically reducing the need for special legislative exemptions.

Together with the additional municipal revenues proposed in the Emergency Recovery Bill that I am also filing today, these measures can help cities and towns weather the present fiscal downturn, save hundreds of millions of dollars over time, and take significant pressure off property taxes now and in the future. I am especially grateful to Lieutenant Governor Murray and to the municipal officials who spoke up during his municipal listening tour, the source of many of the ideas in this proposal.

I urge your prompt and favorable consideration of this legislation.

Sincerely,

DEVAL L. PATRICK,  
*Governor.*

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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## AN ACT STRENGTHENING THE COMMONWEALTH'S PARTNERSHIP WITH MUNICIPALITIES.

*Whereas*, the deferred operation of this act would tend to defeat its purpose, which is forthwith to strengthen the commonwealth's partnership with its municipalities in the present fiscal emergency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

### INTERNET ADVERTISING OF PROCUREMENTS - 1

SECTION 1. Chapter 7 of the General Laws is hereby amended by inserting after section 22N the following section:-

Section 22O. Notwithstanding any general or special law to the contrary, whenever a law requires a state agency, department, office, commission, authority or governmental body, as defined in section 2 of chapter 30B, to publish in a newspaper a notice of a public procurement or solicitation, it shall be sufficient instead to post that notice on a public government internet website, including the commonwealth's electronic solicitation and bidding website.

### REVERSE AUCTIONS - 1

SECTION 2. Section 2 of chapter 30B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the definition of "Responsible bidder or offeror" the following definition:-

"Reverse auction", an internet-based process used to buy supplies and services, whereby sellers of the supply or service being auctioned anonymously bid against each other until time expires and until the governmental body determines from which sellers it will buy based on the pricing obtained as a result of the reverse auction.

### SUBMISSION OF ELECTRONIC BIDS - 1

SECTION 3. Said section 2 of chapter 30B, as so appearing, is hereby further amended by inserting after the definition of "Services" the following definition:- "Submission requirements", those requirements which set forth, in either the invitation for bids or the request for proposals, whether the bids or proposals

are to be delivered to a specific office address and, if online/electronic bids or proposals will be accepted, to a specified publicly-accessible website or system sponsored by a governmental body or the commonwealth, which includes encryption, lockbox, date/time stamp, audit trail and secure access features, as may be required by law. Electronic bids or proposals are only permitted if the governmental body has the electronic capability to maintain the confidentiality of the bids until the bid opening time and the proposals until the evaluation process is complete.

#### INCREASED BIDDING THRESHOLDS UNDER 30B

SECTION 4. Section 4 of said chapter 30B, as so appearing, is hereby amended by striking out, in line 3, the words “\$5,000 or greater, but less than \$25,000” and inserting in place thereof the following words:- \$10,000 or greater, but less than \$25,000. □ SECTION 5. Said section 4 of chapter 30B, as so appearing, is hereby further amended by striking out, in line 14, the figure “\$5,000” and inserting in place thereof the following figure:- \$10,000.

SECTION 6. Section 5 of said chapter 30B, as so appearing, is hereby amended by striking out, in lines 1 to 2, the words “Except as permitted under section six or section eight” and inserting in place thereof the following words:- Except as permitted under section 6, section 6A or section 8.

#### SUBMISSION OF ELECTRONIC BIDS - 2

SECTION 7. Said section 5 of chapter 30B, as so appearing, is hereby further amended by striking out, in lines 7 to 8, the words: “the address of the office to which bids are to be delivered” and inserting in place thereof the following words:- the bid’s submission requirements as defined in section 2.

#### INTERNET ADVERTISING OF PROCUREMENTS - 2

SECTION 8. Said section 5 of chapter 30B, as so appearing, is hereby further amended by inserting after the word “body”, in line 32, the following words:- or on a public internet website of either the governmental body of the commonwealth.

#### SUBMISSION OF ELECTRONIC BIDS - 3

SECTION 9. Section 6 of said chapter 30B, as so appearing, is hereby amended by striking out, in lines 10 to 11, the words: “the address of the office to which the proposals are to be delivered” and inserting in place thereof the following words:- the proposal’s submission requirements as defined in section 2.

#### REVERSE AUCTIONS – 2

SECTION 10. Said chapter 30B is hereby amended by inserting after section 6 the following section:-

Section 6A. (a) A procurement officer may enter into procurement contracts in the amount of \$50,000 or more utilizing reverse auctions for the acquisition of supplies and services. The reverse auction process shall include a specification of an opening date and time when real-time bids may be accepted electronically via the internet, and provide that the procedures shall remain open until the designated closing date and time.

(b) All bids on reverse auctions shall be posted electronically on the internet, updated on a real time basis, and shall allow registered bidders to lower the price of their bid below the lowest bid on the internet.

(c) The procurement officer shall require vendors to register before the reverse auction opening date and time, and as part of the registration, agree to any terms and conditions and other requirements of the solicitation.

(d) Reverse auctions shall not be subject to subsections (b), (d) and (f) of section 5 but shall be subject to all other provisions of that section.

(e) The chief procurement officer shall unconditionally accept a bid without alteration or correction, except as provided in this paragraph. After the bidding period closes, a bidder may not change the price or any other provision of the bid in a manner prejudicial to the interests of the governmental body or fair competition. The procurement officer shall waive minor informalities or allow the bidder to correct them. If a mistake in the intended bid is clearly evident on the face of the bid, the procurement officer shall correct the mistake to reflect the intended correct bid and so notify the bidder in writing, and the bidder may not withdraw the bid. A bidder may withdraw the bid if a mistake is clearly evident on the face of the bid but the intended correct bid is not similarly evident.

#### CIVIL SERVICE MAXIMUM AGE

SECTION 11. Section 58 of chapter 31 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentences:- Appointing authorities that seek to waive the maximum age requirement for certain individuals shall submit a written application to the administrator. The administrator may waive this requirement based on extenuating circumstances, consistent with the fundamental purposes of the requirement. The administrator may adopt regulations for reviewing these applications.

SECTION 12. Section 58A of said chapter 31, as so appearing, is hereby further amended by adding the following 3 sentences:- Appointing authorities that seek to waive the maximum age requirement for certain individuals shall submit a written application to the administrator. The administrator may waive this requirement based on extenuating circumstances, consistent with the fundamental purposes of the requirement. The administrator may adopt regulations for reviewing these applications.

#### REVISED PROVISIONS FOR TRANSFER OF MUNICIPAL RETIREMENT SYSTEMS INTO PRIM

SECTION 13. Paragraph (c1/2) of subdivision (8) of section 22 of chapter 32 of the General Laws, as inserted by section 2 of chapter 68 of the acts of 2007, is hereby amended by inserting after the word “perpetuity”, in the first paragraph, the following words:- , but a system that has voluntarily transferred ownership and control of all of its assets to the PRIM board before receiving a notice from the commission that the system is underperforming, as determined under this section, shall not be subject to the requirement that the transfer be in perpetuity.

SECTION 14. Said paragraph (c1/2) of subdivision (8) of section 22 of chapter 32, as so inserted, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

A system ordered by the commission to transfer its assets under this paragraph may appeal to the commission for an exemption by filing written notice of its appeal with the commission not later than 30 days after receiving the commission’s order to transfer its assets. The commission may grant an

exemption from the transfer requirement of this paragraph if the system's rate of return has exceeded the PRIT Fund rate of return for the previous 2 years or if the system's rate of return was affected by other extenuating circumstances. The commission may also consider the system's management costs, its risk return ratio and any other factors it considers appropriate. A system may seek judicial review of the commission's decision to deny an exemption in the manner provided in section 14 of chapter 30A. An exemption granted by the commission under this paragraph shall take effect only upon the approval of a majority of the local governing body as follows: in a county, by the county commissioners, in a city having a Plan D or Plan E charter, by the city council and the manager, in any other city the city council and the mayor, in a town shall, by the board of selectmen, in a regional retirement system by the regional retirement board advisory council and in all other districts, by the governing board. The local governing body shall vote whether or not to approve the commission's grant of exemption within 30 days after the commission's decision to provide an exemption.

#### PRO-RATING OF INSURANCE FOR PART-TIME EMPLOYEES

SECTION 15 . Section 3 of chapter 32B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

For an employee regularly employed for fewer than 37.5 hours per week, the governmental unit may contribute an amount of that employee's premium that is the same proportion of the amount paid for a full-time employee's premium as that employee's regular weekly hours is of 37.5 hours.

#### TRANSFER OF ELIGIBLE MUNICIPAL RETIREES INTO MEDICARE

SECTION 16. Section 18 of chapter 32B is hereby repealed.

SECTION 17. Said chapter 32B of the General Laws is hereby amended by striking out section 18A, as inserted by chapter 374 of the acts of 2008, and inserting in place thereof the following section:-

Section 18B. (a) All retirees, their spouses and dependents insured or eligible to be insured under this chapter, if enrolled in Medicare Part A at no cost to the retiree, spouse or dependents or eligible for coverage thereunder at no cost to the retiree, spouse or dependents, shall be required to transfer to a Medicare health plan offered by the governmental unit under section 11C or section 16, if the benefits under the plan and Medicare Part A and Part B together shall be of comparable actuarial value to those under the retiree's existing coverage, but a retiree or spouse who has a dependent who is not enrolled or eligible to be enrolled in Medicare Part A at no cost shall not be required to transfer to a Medicare health plan if a transfer requires the retiree or spouse to continue the existing family coverage for the dependent in a plan other than a Medicare health plan offered by the governmental unit.

(b) Each retiree shall provide the governmental unit, in such form as the governmental unit shall prescribe, such information as is necessary to transfer to a Medicare health plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health coverage. The governmental unit may from time to time request from a retiree, a retiree's spouse or a retiree's dependent, proof, certified by the federal government, of eligibility or ineligibility for Medicare Part A and Part B coverage.

(c) The governmental unit shall pay any Medicare Part B premium penalty assessed by the federal government on the retiree, spouse or dependent as a result of enrollment in Medicare Part B at the time of transfer.

#### PROVISION OF GIC COMPARABLE HEALTH INSURANCE

SECTION 18. The fourth paragraph of subsection (a) of section 19 of chapter 32B of the General Laws, as inserted by section 4 of chapter 67 of the acts of 2007, is hereby amended by striking out, in the eighth and twelfth sentences, the figure “70” and inserting in place thereof, in both instances, the following figure:- 50.

SECTION 19. Said section 19 of chapter 32B, as so inserted, is hereby further amended by adding the following subsection:-

(j) (1) A political subdivision which does not elect to transfer its subscribers to the group insurance commission under subsection (e) or revokes its acceptance or withdraws from the commission under subsection (h) shall be subject to regulations adopted by the secretary of administration and finance creating a process by which to evaluate the subdivision’s cost of health care to its employees.

(2) Within 7 days after the regulations specified in paragraph (1) have been adopted, and in subsequent years as determined by the regulations, the commission shall submit to the secretary a determination of the average cost per member of the insurance provided by the commission.

(3) Within 30 days after these regulations have been adopted, and in subsequent years as determined by the regulations, each political subdivision subject to this subsection shall submit to the secretary of administration and finance documentation of the cost of the health insurance it provides to its members, including the average cost of insurance per member.

(4) If the secretary of administration and finance determines within 30 days of receiving this information that a political subdivision is paying an average cost per member that exceeds the amount paid by the commission by more than a percentage determined in the regulations, the secretary shall notify the political subdivision that it shall demonstrate within 90 days that it will take action to reduce its cost to an average cost per member comparable to that paid by the commission.

(5) If the political subdivision does not demonstrate within 90 days after it receives this notice that it will adjust its health insurance cost to comply with this section, the secretary shall notify the political subdivision that its general government aid for the following fiscal year shall be adjusted to reflect the difference between the political subdivision’s cost of health insurance per employee and the commission’s cost of health insurance per employee.

#### VALIDATION OF LOCAL ELECTIONS BY SECRETARY OF STATE

SECTION 20. Section 10 of chapter 39 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

After written application by the board of selectmen, the state secretary may validate or ratify a town meeting, town election and actions taken pursuant to the town meeting or town election, if the secretary determines that inadvertent failure to comply with the procedural requirements of this chapter or of a town by-law or charter did not contradict the fundamental purposes of those procedural requirements and

was unlikely to affect the outcome of the town election or town meeting. The state secretary may adopt regulations to carry out this paragraph.

#### LONG-TERM MUNICIPAL LEASES

SECTION 21. Section 3 of chapter 40 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 4, the word “ten” and inserting in place thereof the following figure:- 99.

#### COLLECTIVE BARGAINING AND REGIONAL ENTITIES

SECTION 22. The second paragraph of section 4A of chapter 40 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:- A decision to enter into an intermunicipal agreement under this section, or to join any regional entity, shall not be subject to collective bargaining under chapter 150E.

#### COLLECTIVE PURCHASING BY EDUCATIONAL COLLABORATIVES

SECTION 23. Said chapter 40 of the General Laws is hereby amended by inserting after section 4E the following section:-

Section 4E1/2.(a) Notwithstanding any general or special law to the contrary, for the benefit of their school programs, education collaboratives, as defined in section 4E, may make purchases from a vendor's contract that has been competitively procured by another state or political subdivision or public entity thereof for the item or items being purchased.

(b) These education collaboratives shall not be subject to subsection (c) of section 1 of chapter 30B or section 22A of chapter 7 insofar as those laws preclude out-of-state collective purchases by education collaboratives for a period not to exceed 2 years after the effective date of this section, but those provisions shall apply to any collective purchasing by education collaboratives that occurs more than 2 years after that date.

(c) The inspector general shall review the process by which education collaboratives are making out-of-state collective purchases. Education collaboratives participating in out-of-state collective purchasing must submit biannually the following summary information to the office of the inspector general: (1) the entity from which the purchase was made and, if the purchase was from a state, political subdivision or a public entity of another state, what information informed them that the out-of-state entity was a political subdivision or a public entity, (2) a full and complete description of the items purchased, and (3) documentation of savings obtained, with relevant Massachusetts cost comparisons.

#### MUTUAL AID AGREEMENT

SECTION 24. Said chapter 40 of the General Laws is hereby amended by inserting after section 4I the following section:-

Section 4J. There shall be a Statewide Mutual Aid Agreement, the purpose of which is to create a framework for the provision of mutual aid assistance among the parties to the Agreement in the case of any public safety incident. The assistance to be provided under the Agreement shall include but not be limited to fire service, law enforcement, emergency medical services, transportation, communications, public works, engineering, building inspection, planning and information assistance, mass care, resource

support, public health, health and medical services, search and rescue, and any other resource, equipment or personnel that a party to the Agreement may request or provide in anticipation of, or in response to, a public safety incident.

#### Article I. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

“Agreement”, this Statewide Mutual Aid Agreement established by this section.

“Authorized representative”, in the case of a city or town, the mayor, city manager, town manager, town administrator, executive secretary, police chief or on-duty shift commander of the police department, fire chief or on-duty shift commander of the fire department, health director or chair person of the board of health, and the emergency management director. In the case of a governmental unit that is not a city or town, the chief executive officer or on-duty shift supervisor.

“Emergency Management Assistance Compact” or “EMAC”, the interstate compact that provides for mutual assistance between the commonwealth and certain other states pursuant to chapter 339 of the acts of 2000.

“Employee”, a person employed full time or part time by a governmental unit, a volunteer officially operating under a governmental unit, or a person contractually providing services to a governmental unit.

“Governmental unit”, a city, a town, a county, a regional transit authority established under chapter 161B, a water or sewer commission or district established under the provisions of chapter 40N or pursuant to a special law, a fire district, a regional health district established under the provisions of chapter 111, the Massachusetts Port Authority, a regional school district, a law enforcement council, or any other political subdivision of the commonwealth.

“Incident command system” or “ICS”, the standardized National Incident Management System (NIMS) that establishes an on-scene management system of procedures for controlling personnel, facilities, equipment and communications from different agencies to work together towards a common goal in an effective and efficient manner. ICS is the chain of leadership and command at the scene of an emergency or other event for which mutual aid assistance is provided.

“International Emergency Management Assistance Compact” or “IEMAC”, the international compact that provides for mutual aid between the commonwealth and certain other states and provinces of Canada pursuant to section 58 of chapter 300 of the acts of 2002.

“Law Enforcement Council”, a non-profit corporation organized under chapter 180 whose directorate includes municipal police chiefs and whose membership includes (a) municipalities whose participation in the council has been authorized by their principal executives, and (b) other law enforcement agencies; and whose purpose is to provide:

- (1) mutual aid to its members pursuant to mutual aid agreements;
- (2) mutual aid or requisitions for aid to non-members consistent with section 8G of this chapter or section 99 of chapter 41; and,
- (3) enhanced public safety by otherwise sharing resources and personnel.

“MEMA”, the Massachusetts emergency management agency.



“Mutual aid assistance”, cross-jurisdictional provision of emergency services, materials or facilities by agencies or organizations to assist each other when existing resources are or may be inadequate.

“Party”, a governmental unit that is a party to the Agreement under this section.

“Public safety incident”, an event, emergency or disaster, that threatens or causes harm to public health, safety and/or welfare and that exceeds, or reasonably may be expected to exceed, the response or recovery capabilities of any governmental unit. These events include, but are not limited to, natural and manmade disasters, technological hazards, planned events, civil unrest, health related events and emergencies, acts of terrorism, and trainings and exercises that test and simulate the ability to manage, respond to or recover from any of these events.

“Requesting party”, a party that requests aid or assistance from another party pursuant to the Agreement.

“Sending party”, a party that renders aid or assistance to another party under the Agreement.

## Article II. PARTIES TO THE AGREEMENT

### A. Cities and Towns

If a city or town wishes to join the Agreement, the mayor in the case of a city, the city manager in the case of a Plan D or E city, or the town manager, town administrator, or chair of the board of selectmen upon approval by a majority vote of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the director of MEMA in writing. The municipality shall be a party to the Agreement 30 days after receipt by MEMA of the written notification.

If a city or town has joined the Agreement but wishes to opt out of the Agreement, the mayor in the case of a city, the city manager in the case of a Plan D or E city, or the town manager, town administrator, or chair of the board of selectmen upon approval by a majority vote of the board of selectmen in the case of a town, may act on behalf of the city or town to opt out of the Agreement by notifying MEMA in writing. The removal of the municipality from the Agreement shall take effect 10 days after receipt by MEMA of the written notification.

### B. Other Governmental Units

If a governmental unit that is not a city or town wishes to join the Agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the director of MEMA in writing. The governmental unit shall be a party to the Agreement 30 days after receipt by MEMA of the written notification.

If a governmental unit has joined the Agreement but wishes to opt out of the Agreement, the chief executive officer of the governmental unit may act on its behalf to opt out of the Agreement by notifying MEMA in writing. The removal of the municipality from the Agreement shall take effect 10 days after receipt by MEMA of the written notification.

### C. Cities and Towns in Adjoining States

A city or town that directly borders a city or town of the commonwealth, but is in another state, may join the Agreement. A duly authorized officer of such a city or town shall provide written notice to the director of MEMA of its intent to join the Agreement together with a valid written certification of the

lawfulness of his or her action and authority. The city or town shall be a party to the Agreement 10 days following receipt by MEMA of the written notification.

The officer or successor in office of such a city or town in another state that has joined the Agreement may act on behalf of the city or town to remove itself as a party by notifying the director of MEMA in writing of its intent. The removal of the city or town from the Agreement shall take effect 30 days after receipt by MEMA of the written notification.

#### Article III. REQUESTS FOR MUTUAL AID ASSISTANCE

A request by a party to receive mutual aid assistance under to the Agreement must be made by an authorized representative of the requesting party and must be communicated to an authorized representative of the sending party or to MEMA. Such a request may be communicated orally or in writing. If communicated orally, the requesting party shall reduce the request to writing and deliver it to the sending party or to MEMA at the earliest possible date, but no later than 72 hours after making the oral request.

A party to the Agreement may request mutual aid assistance during, in anticipation of, or as a result of a public safety incident.

An oral or written request for mutual aid assistance under the Agreement shall include the following information: (1) a description of the public safety incident; (2) the nature, type and amount of personnel, equipment, materials, supplies or other resources being requested; (3) the manner in which the resources will be used and deployed; (4) a reasonable estimate of the length of time the resources will be needed; (5) the location to which the resources should be deployed; and (6) and the requesting party's point of contact.

A party that receives a request for mutual aid assistance shall, to the extent reasonable and practicable under the circumstances, provide and make available the resources requested by the requesting party. However, a party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

#### Article IV. SUPERVISION; CONTROL; OPERATION OF EQUIPMENT

The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by a sending party consistent with the NIMS and the Incident Command System. The sending party shall retain direct supervision and command and control of personnel, equipment and resources provided by the sending party unless otherwise agreed to by the requesting party and sending party.

During the course of rendering mutual aid assistance under this Agreement, the sending party shall be responsible for the operation of its equipment and for any damage thereto unless the sending party and the requesting party agree otherwise.

#### Article V. COSTS AND REIMBURSEMENT

Except as set forth in this Agreement, all expenses incurred by the sending party in rendering mutual aid assistance pursuant to the Agreement shall be paid by the sending party. But a requesting party may agree to pay the expenses incurred by a sending party.

A sending party shall document its costs of providing mutual aid assistance under the Agreement, including direct and indirect payroll and employee benefit costs, travel costs, repair costs, and the costs of materials and supplies. A sending party also shall document the use of its equipment, and the quantities of materials and supplies used while providing mutual aid assistance under the Agreement. A sending party shall cooperate with a requesting party in documenting costs associated with providing mutual aid assistance under the Agreement and seeking reimbursement for such costs.

Except as set forth in this Agreement, there shall be no expectation of automatic, necessary or contractual reimbursement to a sending party for providing mutual aid assistance under the Agreement. But a requesting party and a sending party may enter into agreements for reimbursement of costs associated with providing mutual aid assistance.

Except as otherwise agreed to by the requesting and sending parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the costs of responding to and dealing with the public safety incident, including the mutual aid assistance costs incurred by all sending parties. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance compensation and reimbursement provided to the requesting party.

#### Article VI. OTHER MUTUAL AID AGREEMENTS

This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements involving parties to the Agreement.

A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

In the event of a conflict between the Agreement and any lawful supplementary or preexisting statutory or contractual mutual aid assistance agreement, the supplementary or preexisting agreement shall take precedence over the Agreement.

#### Article VII. POWERS, LICENSES, PERMITS

While providing mutual aid assistance under the Agreement in the geographical jurisdiction or location of a requesting party, employees of a sending party shall be afforded the same powers, duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location.

Employees of a sending party who hold a valid license, certificate, or other permit in their geographical jurisdiction evidencing the meeting of qualifications for professional, mechanical or other skills, shall be considered similarly licensed, certified or permitted in the requesting party's geographical jurisdiction or location during the time that they are providing mutual aid assistance under the Agreement.

#### Article VIII. WAGES & COMPENSATION

Employees of a sending party, while providing mutual aid assistance under this Agreement, shall receive the same salary, including overtime, that they would be entitled to receive if they were operating in their own geographical jurisdiction. In the absence of an agreement to the contrary, the sending party shall be responsible for, and pay, all such salary expenses, including overtime.

#### Article IX. LIABILITY

In transit to, returning from, and while providing mutual aid assistance under the Agreement in the requesting party's jurisdiction or location, employees of a sending party shall have the same rights of defense, immunity and indemnification that they otherwise would have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the Agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, worker's compensation or similar protection, and insurance coverage that would be provided to such employees if they were performing similar services in the sending party's jurisdiction.

Each party to the Agreement waives all claims and causes of action against all other parties that may arise out of their activities while rendering or receiving mutual aid assistance under this Agreement, including travel outside of its jurisdiction.

Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage or personal injury which may arise out of the activities of the sending party or its employees, including travel, of providing mutual aid assistance under the Agreement.

#### Article X. EMERGENCY MANAGEMENT ASSISTANCE COMPACTS

The director of MEMA or the director's designee shall be the person authorized under EMAC and IEMAC to (i) receive, coordinate, and answer all requests to the commonwealth to provide mutual aid assistance to another state or country pursuant to EMAC and IEMAC, and (ii) make and coordinate all requests on behalf of the commonwealth to another state or country to receive mutual aid assistance pursuant to EMAC and IEMAC.

MEMA shall be the agency of the commonwealth authorized to dispatch resources of the commonwealth or of a governmental unit to another state or country to provide mutual aid assistance pursuant to EMAC and IEMAC. Employees of a governmental unit who, at the request and with the approval of MEMA, render mutual aid assistance to another state or country pursuant to EMAC or IEMAC shall be considered to be emergency forces and officers of the commonwealth for the limited purpose of effectuating the purposes of EMAC and IEMAC.

Employees of the commonwealth or a governmental unit who, at the request and with the approval of MEMA, render mutual aid assistance to another state or country pursuant to EMAC or IEMAC shall, except as otherwise provided for in this Agreement or in EMAC or IEMAC, be provided the same compensation, rights, responsibilities, benefits and protections that they would be entitled to receive if they were operating in their own geographical jurisdiction.

The commonwealth shall reimburse each governmental unit for the reasonable expenses incurred in rendering mutual aid assistance under EMAC or IEMAC at the request and with the approval of MEMA, including direct and indirect payroll costs, overtime costs, travel costs, repair costs, replacement costs, costs of materials and supplies, and injury or death benefits.

#### REVIEW OF ASSESSMENT CERTIFICATION SCHEDULE

SECTION 25. Section 56 of said chapter 40, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding the first paragraph or any other general or special law, the commissioner may, from time to time, issue a revised schedule for the year in which he shall certify whether the board of assessors is assessing property at full and fair cash valuation. After the schedule is issued, a city or town may classify in the manner set forth in this section for any year before the next year of certification established in the schedule for the city or town. In arranging the schedule the commissioner shall, so far as practicable and appropriate, consider but not be limited to the following goals: balancing the number of certification reviews conducted in each year of the triennial period, facilitating and implementing joint or cooperative assessing agreements or districts, assisting boards of assessors to comply with any minimum standards of assessment performance established under section 1 of chapter 58 and producing uniformity in the valuation, classification and assessment of property within each city or town and throughout the commonwealth.

#### JOINT OR REGIONAL ASSESSING AGREEMENTS

SECTION 26. Chapter 41 of the General Laws is hereby amended by striking out section 30B, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 30B. (a) Notwithstanding any general or special law, or any municipal charter, vote, bylaw, or ordinance, any 2 or more cities and towns may by vote of their legislative bodies enter into an agreement for joint or cooperative assessing, classification and valuation of property. Such agreement shall be for a term not to exceed 25 years and provide for:

- (1) the division, merger or consolidation of administrative functions between or among the parties, or the performances thereof by one city or town on behalf of all the parties;
- (2) the financing of the joint or cooperative undertaking;
- (3) the rights and responsibilities of the parties with respect to the direction and supervision of the work to be performed and with respect to the administration of the assessing office including the receipt and disbursement of funds, the maintenance of accounts and records and the auditing of accounts;
- (4) annual reports of the assessor to the constituent parties;
- (5) the duration of the agreement and procedures for amendment, withdrawal or termination thereof; and
- (6) any other necessary or appropriate matter.

(b) An agreement under this section may also provide for the formation of a single assessing department for the purpose of employing assistant assessors and necessary staff and performing all administrative functions. An agreement may also vest in 1 person, the board of assessors of 1 of the parties or a regional board of assessors comprised of at least 1 representative from each of the parties and selected in the manner set forth in the agreement all the powers and duties of the boards of assessors and assessing departments of the parties. In that case, the existing boards of assessors of the other parties, or of all the parties if their assessors' powers and duties are vested in 1 person, shall terminate in accordance with section 2 for the duration of the agreement. Unless the agreement provides for the board of assessors of 1 of the parties to serve as the assessors for all parties, or 1 city or town to act on behalf of all parties, the agreement shall designate an appointing authority representing all of the parties, which shall be responsible for the appointment of an assessor, designate to the extent required by the agreement, the

appointing authority for any assistant assessors and other staff, and in the case of withdrawal or termination of the agreement, determine the employment of any employee of one of the parties that became part of a single assessing department. Subject to the rules and regulations established by the commissioner of revenue pursuant to section 1 of chapter 58, the agreement shall provide for qualifications, terms and conditions of employment for the assessor and employees of his office. The agreement may provide for inclusion of the assessor and said employees in insurance, retirement programs and other benefit programs of one of the constituent parties, but all parties to the agreement shall be responsible for paying a proportionate share of the current and future costs of benefits associated with the appointment or employment of all persons performing services for them during the duration of the agreement. Any city or town party to such an agreement shall include employees under the joint assessing agreement in such programs in accordance with the terms of the agreement.

(c) Cities and towns may become parties to any existing agreement with the approval of the other parties.

(d) No agreement or amendment to an agreement for joint or cooperative assessing made pursuant to this section shall take effect until it has been approved in writing by the commissioner of revenue.

#### FLEXIBILITY IN MUNICIPAL BORROWING

SECTION 27. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by inserting after the word “specified”, in line 3, the following words: - or, except with respect to clauses (11), (16), (18), (21) and (22), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed, as determined in accordance with guidelines established by the division of local services of the department of revenue.

SECTION 28. Said section 7 of said chapter 44, as so appearing, is hereby further amended by striking out in lines 50 to 53 the words “or for such maximum term, not exceeding 15 years, based upon the maximum useful life of the equipment as determined by the board of selectmen or the mayor or city manager of the city or town”.

SECTION 29. Said section 7 of said chapter 44, as so appearing, is hereby further amended by inserting after clause (31) the following clause:-

(32) For any other public work, improvement or asset not specified in any of the above clauses, with a maximum useful life of at least 5 years, determined as provided in the first sentence of this section, 5 years.

SECTION 30. Section 8 of said chapter 44, as so appearing, is hereby amended by inserting after the word “specified”, in line 3, the following words: - or except with respect to clauses (1), (2), (3A), (5), (6), (7), (9) and (19), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed as determined in accordance with guidelines established by the division of local services of the department of revenue.

SECTION 31. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 77 and 78, the words “a board composed of the attorney general, the state treasurer and the director” and inserting in place thereof the following words: - the municipal finance oversight board.

SECTION 32. Said section 8 of said chapter 44, as so appearing, is hereby further amended by inserting after the word “vote”, in line 190, the following words: - , provided, however, that debt under clause (9) of this section may be authorized by the treasurer of a city, with the approval of the official whose approval is required by the city charter in the borrowing of money, the treasurer of a town with a town council form of government, with the approval of the official whose approval is required by the town charter in the borrowing of money, the treasurer of a town without a town council form of government, with the approval of the board of selectmen, and the treasurer of a district, with the approval of the prudential committee, if any, otherwise of the commissioners.

SECTION 33. Said chapter 44 is hereby further amended by striking out section 19, as so appearing, and inserting in place thereof the following section:-

Section 19. Cities, towns and districts shall not issue any notes payable on demand, and they shall provide for the payment of all debts, except temporary loans incurred under sections 4, 6, 6A, 8C, and 17, or under section 3 of chapter 74 of the acts of 1945, by annual payments that will extinguish the same at maturity, and so that the first of these annual payments on account of any serial loan shall be made not later than the end of the next complete fiscal year commencing after the date of the bonds or notes issued for the serial loan, and shall be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue the bonds or notes, or in the alternative, in accordance with a schedule providing a more rapid amortization of principal; and these annual amounts, together with the interest on all debts, shall, without further vote, be assessed until the debt is extinguished.

SECTION 34. Section 21A of said chapter 44, as so appearing, is hereby amended by inserting after the word “law”, in line 10, the following words: - , and provided further that no order or vote authorizing the issuance of refunding bonds or notes shall be subject to any referendum provisions contained in any general or special law, any city or town charter, any city ordinance or town by-law, or other provision.

SECTION 35. Section 22 of said chapter 44, as so appearing, is hereby amended by adding the following sentence: - Notwithstanding the above, the selectmen may delegate to the town treasurer the approval of the rate or rates of interest with any limitations that the selectmen determine to be in the best interests of the town.

SECTION 36. Section 22A of said chapter 44, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence: - Bonds or notes issued by a city may be secured in whole or in part by insurance or by letters or lines of credit or other credit facilities, provided that the city treasurer and mayor or city manager, as applicable, determine that issuing bonds or notes on this basis is in the best interests of the city.

SECTION 37. Section 22B of said chapter 44 is hereby repealed.

ELIMINATION OF FEE FOR STATE HOUSE NOTES

SECTION 38. Section 26 of said chapter 44 is hereby repealed.

STREAMLINED ABATEMENT PROCESS

SECTION 39. Section 8 of chapter 58 of the General Laws, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:-  
The commissioner shall make, and from time to time revise, rules and regulations necessary for establishing an expedited procedure for granting authority to abate taxes, assessments, rates, charges, costs or interest under this section in such cases as he determines are in the public interest and shall from time to time for such periods as he considers appropriate authorize the assessors or the board or officer assessing the tax, assessment, rate or charge, to grant these abatements. No abatement authorized by these procedures shall be granted unless the assessors or board or officer shall certify, in writing, under pains and penalties of perjury that the procedures have been followed. The commissioner shall require yearly reports and audits of these abatements by assessors or boards or officers that the commissioner considers necessary to ensure that any authority granted under this paragraph has been properly exercised, and shall withdraw this grant of authority to any particular assessors, board or officer upon his written determination that the authority has been improperly exercised. The commissioner may make, and from time to time revise, reasonable rules and regulations that he considers necessary to carry out this paragraph.

#### AUDIT OF PERSONAL PROPERTY RETURNS

SECTION 40. Section 29 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words “”thirty days after the mailing of the tax bills” and inserting in place thereof the following words”- the last day for filing an application for abatement of the tax.

SECTION 41. Said chapter 59 is hereby further amended by inserting after section 31 the following section:-

Section 31A. For the purpose of verifying that any person required to file a true list of taxable personal property under section 29 has made a complete and accurate accounting of that property, the assessors may at any time within 3 years after the date the list was due, or the date the list was filed, whichever is later, examine the books, papers, records and other data of the person required to file the list. The assessors may compel production of books, papers, records and other data of the person through issuance of a summons served in the same manner as summonses for witnesses in criminal cases issued on behalf of the commonwealth, and all provisions of law relative to summonses in such cases shall, so far as applicable, apply to summonses issued under this section. Any justice of the supreme judicial court or of the superior court may, upon the application of the assessors, compel the production of books, papers, records, and other data in the same manner and to the same extent as before the said courts.

SECTION 42. Section 32 of said chapter 59, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:-

Lists filed under section 29 and books, papers, records and other data obtained under section 31A, shall be open to the inspection of the assessors, the commissioner, the deputies, clerks and assistants of either the assessors or the commissioner and any designated private auditor of the commissioner or the assessors as may have occasion to inspect the lists, books, papers, records and other data in the performance of their official, contractual or designated duties, but so much of the lists, books, papers, records and other data as



shows the details of the personal estate shall not be open to any other person except by order of a court. For purposes of this section, a designated private auditor shall be an individual, corporation or other legal entity selected by the commissioner or any city or town to value personal property or perform an audit which includes the assessing department of a city or town under any legal authority, including the examination of records under section 31A, an audit under sections 40 or 42A of chapter 44 or an investigation under section 46A of chapter 44.

SECTION 43. Said chapter 59 of the General Laws, as so appearing, is hereby further amended by inserting after section 42 the following section:-

Section 42A. For the purpose of verifying that any owner of a pipeline or a telephone or telegraph company required to make a return under section 38A or 41 has made a complete and accurate accounting of the property required to be returned, the commissioner shall have all the powers and remedies provided by section 31A to assessors of cities and towns. If the commissioner reasonably believes, as a result of an examination of books, papers, records, and other data or otherwise, that taxable personal property for a fiscal year was not valued or was incorrectly valued, the commissioner may, not later than 3 years and 6 months after the date the return was due, or the date the return was filed, whichever is later, certify an amended valuation to the owner of the pipeline or telephone or telegraph company and boards of assessors of the cities and towns where the property was subject to taxation for that year. Not later than 2 months after the date of the amended certification, the assessors shall assess and commit to the collector with their warrant for collection an additional tax to the owner of the pipeline or telephone or telegraph company. Any owner or company aggrieved by the assessment of the additional tax may, within 1 month after the bill or notice of the additional assessment is first sent, appeal the valuation to the appellate tax board. The appeal shall name as appellees the commissioner and board of assessors. Except as otherwise provided in this section, the hearing and appeal before the appellate tax board shall proceed in the same manner as an appeal of the valuations originally certified by the commissioner.

SECTION 44. Section 61 of said chapter 59, as so appearing, is hereby amended by inserting after the word "twenty-nine", in line 4, the following words:- , and complied with any requests by the assessors to examine books, papers, records, and other data under section 31A.

SECTION 45. Said section 61 of chapter 59, as so appearing, is hereby further amended by inserting after the word "twenty-nine", in line 6, the following words:- , or the person has not complied with any requests by the assessors to examine books, papers, records, and other data under section 31A.

SECTION 46. Section 75 of said chapter 59, as so appearing, is hereby amended by striking the first sentence and inserting in place thereof the following 3 sentences:-

If any parcel of real property or the personal property of a person has been unintentionally omitted from the annual assessment of taxes due to clerical or data processing error or other good faith reason, or if the personal property of a person was omitted from the annual assessment of taxes but discovered upon an examination of books, papers, records, and other data under section 31A, the assessors shall in accordance with any rules, regulations and guidelines as the commissioner may prescribe, assess such person for such property. Except for personal property found after an examination under section 31A

which shall be made no later than 3 years and 6 months after the date the true list in which such property should have been returned was due, or the date the return was filed, whichever is later, no such assessment shall be made later than June 20 of the taxable year, or 90 days after the date on which the tax bills are mailed, whichever is later. The assessors shall annually, not later than June 30 of the taxable year, or 100 days after the date on which the tax bills are mailed, if mailed after March 22, return to the commissioner a statement showing the amounts of additional taxes so assessed.

SECTION 47. Section 76 of said chapter 59, as so appearing, is hereby amended by inserting after the word “reason”, in line 3, the following words:- , or due to discovery upon an examination of books, papers, records, and other data under section 31A that the property was not accurately or properly reported.

#### FLEXIBILITY IN REGIONAL SCHOOL DISTRICT BORROWING

SECTION 48. Section 16 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph of clause (d) and inserting in place thereof the following paragraph: -

(d.) To incur debt for the purpose of acquiring land and constructing, reconstructing, adding to, and equipping a school building or buildings or for the purpose of remodeling and making extraordinary repairs to a school building or buildings and for the construction of sewerage systems and sewerage treatment and disposal facilities, or for the purchase or use of such systems with municipalities, and for the purpose of purchasing department equipment; or for the purpose of constructing, reconstructing or making improvements to outdoor playground, athletic or recreational facilities; or for the purpose of constructing, reconstructing or resurfacing roadways and parking lots; or for the purpose of any other public work or improvement of a permanent nature required by the district; or for the purpose of any planning, architectural or engineering costs relating to any of the above purposes; provided, however that written notice of the amount of the debt and of the general purposes for which it was authorized shall be given to the board of selectmen in each of the towns comprising the district not later than 7 days after the date on which the debt was authorized by the district committee; and no debt may be incurred until the expiration of 60 days after the date on which the debt was authorized; and before the expiration of this period any member town of the regional school district may hold a town meeting for the purpose of expressing disapproval of the amount of debt authorized by the district committee, and if at that meeting a majority of the voters present and voting express disapproval of the amount authorized by the district committee, the debt shall not be incurred and the district school committee shall prepare another proposal which may be the same as any prior proposal and an authorization to incur debt therefor. Debt incurred under this section shall be payable within 30 years, but no such debt shall be issued for a period longer than the maximum useful life of the project being financed as determined in accordance with guidelines established by the division of local services of the department of revenue.

#### LOCAL LICENSING AUTHORITY DISCRETION TO ESTABLISH QUOTA

SECTION 49. Chapter 138 of the General Laws is hereby amended by striking out section 17, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 17. The legislative body of each city or town that has voted to grant licenses for the sale of alcoholic beverages as provided in section 11 shall determine the number of licenses issued in the city or town under sections 12 and 15 . Cities or towns that have voted to grant licenses as provided in section 11 may grant seasonal licenses under section 12 in a number determined by the legislative body.

SECTION 50. Sections 17A, 7B and 17C of said chapter 138 are hereby repealed.

SECTION 51. The number of licenses for the sale of alcoholic beverages allowed by prior law shall continue in force until changed by the legislative body under section 17 of chapter 138 of the General Laws.

#### INCREASED THRESHOLD FOR CONSTRUCTION BONDS

SECTION 52. Section 29 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 to 7, the words “in the case of the commonwealth is more than five thousand dollars, and in any other case is more than two thousand dollars” and inserting in place thereof the following words:- is more than \$25,000.

#### SEPARATE TAXATION OF CONDO DEVELOPMENT RIGHTS/OTHER INTERESTS

SECTION 53. Section 14 of chapter 183A of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following 2 sentences:-

Any reserved development right or other interest in those areas and facilities that is adverse to the interests of unit owners in the areas and facilities shall be separately assessed and taxed to the owner of the adverse interest. The lien for those taxes shall attach to the interest so assessed and, to the extent the interest expires or is otherwise extinguished, to units in the condominium created after the assessment of the interest, but not to units against which property taxes were separately assessed in the same fiscal year the interest was assessed.

#### RETIREMENT SYSTEM FUNDING RELIEF

SECTION 54. Notwithstanding any general or special law to the contrary, the actuary of the public employee retirement administration commission may establish appropriations in fiscal years 2010 and 2011 that are equal to the appropriations made in fiscal year 2009. In any system which chooses to conduct an actuarial valuation as of January 1, 2009, the actuary may establish the following appropriations in fiscal years 2010 to 2012: (a) in fiscal year 2010, an appropriation may be established that is less than the appropriation made in fiscal year 2009 but at least 90 per cent of the appropriation made in fiscal year 2009; (b) in fiscal year 2011, an appropriation may be established that is less than the appropriation made in fiscal year 2009 but at least 95 per cent of the appropriation made in fiscal year 2009; and (c) in fiscal year 2012, an appropriation may be established that is equal to the appropriation made in fiscal year 2009.

#### AMORTIZATION OF FY 09 REVENUE DEFICIT

SECTION 55. Notwithstanding section 23 of chapter 59 of the General Laws, or any other special or general law, any city or town may amortize over the 3 fiscal years 2010, 2011 and 2012, in equal installments or more rapidly, an amount of its fiscal year 2009 revenue deficit not to exceed the amount of reductions in local aid made by the governor under section 9C of chapter 29 of the General Laws. The

commissioner of revenue may allow a city or town that have not yet set its tax rates for fiscal year 2009 to use as an estimated revenue in determining its fiscal year 2009 tax rate the amount of local aid appropriated in the state budget, without any decrease on account of reductions made by the governor under section 9C. The local appropriating authority as defined in section 21C of chapter 59 of the General Laws shall adopt a deficit amortization schedule before the setting of the municipal tax rate, consistent with the first sentence of this section. The commissioner of revenue may issue guidelines or instructions for reporting the amortization of deficits authorized by this section.

#### CONDO DEVELOPMENT RIGHTS EFFECTIVE DATE

SECTION 56. Section 53 shall take effect on January 1, 2009.